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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,361	01/05/2004	Axel Bumann	4965-000172	2201

27572 7590 10/19/2006

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EXAMINER
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BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/751,361

Applicant(s)

BUMANN ET AL.

Examiner

Melba Bumgamer

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 10, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Huskens et al. (5,836,768). Huskens et al. disclose an orthodontic implant system comprising an implant 10 having a shaft and a head adjoining the shaft at one end of the shaft, fastening means 50 on the head having at least one elongate recess 52, the recess formed in an outer surface of the head and extending substantially transversely to a longitudinal axis of the shaft and being open on at least one side of the head, a curable adhesive composition (column 5 line 27). Patentable weight is not given to the intended use of the adhesive composition; however, it is noted that the adhesive composition is capable of fixing an element in the recess. The recess is formed as a borehole. The shaft has a thread and a polygon is formed around the head. The process and the intermediate product used in the process by which the system is made are not given patentable weight, because a product claim is properly met if the final product is shown regardless of the process used.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanomi et al. (6,354,834) in view of Watt et al. (5,707,231). Kanomi et al. disclose an orthodontic implant system comprising an implant 51 having a shaft 33 having a thread and a head 59 adjoining the shaft at one end of the shaft, fastening means on the head having two recesses in an outer surface of the head, at least one recess formed as a slit recessed at a free end of the head and having a depth, the two recesses crossing one another at right angles, the recess extending substantially transversely to a longitudinal axis of the shaft and being open on at least one side of the head, the free end has a coning which tapers toward the free end, a radially inwardly directed undercut adjoins the coning at an end opposite the tapered free end, a polygon formed around the head, and the shaft and head formed in one piece; however, they do not show a curable adhesive composition. Watt et al. teach an orthodontic system comprising a curable adhesive composition (column 10 line 10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Kanomi et al. to include an adhesive composition curable by light as in Watt et al. in order to have a mechanical and chemical bonding between orthodontic elements in view of Watt et al. It would have been an obvious matter of choice as to the shape of the recess being in the shape of a borehole. It would have been an obvious matter of choice to one of ordinary skill in the art as to the process and the intermediate product used in the process by which the system is made, because a product claim is properly met if the final product is shown regardless of the process used.

***Response to Arguments***

5. Applicant's arguments filed August 3, 2006 have been fully considered but they are not persuasive. Huskens et al. show all the limitations as claimed. Applicant's argument with respect to rejection under 35 USC 103(a) has been considered but is moot in view of the new ground(s) of rejection.

***Conclusion***

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner  
Primary Examiner